

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

RAFAEL MEDINA, III,

Petitioner,

v.

No. CV 20-1368 WJ/CG  
No. CR 19-1269 WJ/CG

UNITED STATES OF AMERICA,

Respondent.

**ORDER REGARDING RECHARACTERIZATION OF CLAIMS**

This matter is before the Court on Rafael Medina's *pro se* letter dated December 3, 2020. (Doc. 1).<sup>1</sup> Mr. Medina appears to challenge his federal conviction for possessing 50 grams or more of methamphetamine with intent to distribute. *Id.* at 1-2. He alleges counsel was ineffective and the plea was involuntary. *Id.* The proper vehicle for challenging a federal conviction is a habeas corpus proceeding under 28 U.S.C. § 2255. *See Montez v. McKinna*, 208 F.3d 862, 865 (10th Cir. 2000). Accordingly, the Court intends to recharacterize Mr. Medina's claims under § 2255. "[R]echaracterization means that any subsequent [§ 2255 petitions] will be subject to the restrictions on 'second or successive'" habeas claims. *Castro v. United States*, 540 U.S. 375, 376 (2003). To proceed under § 2255, Mr. Medina must file an amended motion on the proper form, which includes all grounds for relief under § 2255, by **April 29, 2021**. If he does not wish to pursue habeas relief, he may simply decline to respond to this Order. The failure to timely comply will result in dismissal of this civil action without prejudice.

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<sup>1</sup> Mr. Medina originally filed the letter in his related criminal case. *USA v. Medina*, 5:19-cr-1269 WJ/CG (D.N.M. Dec. 3, 2020) (Doc. 47).

**IT IS THEREFORE ORDERED** that by **April 29, 2021**, Mr. Medina shall file an amended motion on the proper form, which includes all grounds for relief under § 2255. Mr. Medina must include the civil action number (CV 20-1368 WJ/CG) on all papers he files in this proceeding.

**IT IS FURTHER ORDERED** that the Clerk's Office shall mail Mr. Medina the form § 2255 motion.

**IT IS SO ORDERED.**

A handwritten signature in black ink, appearing to read 'Carmen E. Garza', with a horizontal line extending to the right.

THE HONORABLE CARMEN E. GARZA  
CHIEF UNITED STATES MAGISTRATE JUDGE